

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAY 03 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

JOSE DE JESUS SILVA GONZALEZ;
et al.,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 05-72790

Agency Nos. A76-364-610
A76-364-611

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted April 13, 2006^{**}

Before: SILVERMAN, McKEOWN, and PAEZ, Circuit Judges.

Jose De Jesus Silva Gonzalez and Raquel Flores De Silva, husband and wife
and natives and citizens of Mexico, petition pro se for review of the decisions of

^{*} This disposition is not appropriate for publication and may not be cited to or by
the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral
argument. *See* Fed. R. App. P. 34(a)(2).

the Board of Immigration Appeals affirming without opinion the results of an immigration judge's denial of their application for cancellation of removal.

We lack jurisdiction to review the immigration judge's discretionary determination that petitioners failed to establish the requisite exceptional and extremely unusual hardship to a qualifying relative. 8 U.S.C. § 1252(a)(2)(B)(i); *Martinez-Rosas v. Gonzales*, 424 F.3d 926, 929-30 (9th Cir. 2005).

Petitioners' equal protection challenge to the nationality-based distinctions in the Nicaraguan Adjustment and Central American Relief Act ("NACARA"), which permits aliens from certain countries to apply for special rule cancellation of removal in accordance with the more lenient terms of pre-IIRIRA¹ suspension-of-deportation law, lacks merit. *See Jimenez-Angeles v. Ashcroft*, 291 F.3d 594, 603 (9th Cir. 2002) (rejecting equal protection challenge to NACARA's favorable treatment of aliens from certain war-ravaged countries).

Petitioners' contention that they are entitled to relief because their removal would violate the substantive due process rights of their United States citizen children is foreclosed. *See Urbano De Malaluan v. INS*, 577 F.2d 589, 594 (9th Cir. 1978) (observing that the argument that "the deportation order would amount

¹Illegal Immigration Reform and Immigration Responsibility Act, Pub. L. 104-208, Div. C., Title III, 110 Stat. 3009 (Sept. 30, 1996).

to a de facto deportation of the child and thus violate the constitutional rights of the child ... has been authoritatively rejected in numerous cases.") (citations omitted).

Petitioners' contentions regarding the summary nature of the Board's decision, which was issued pursuant to 8 C.F.R. § 1003.1(e)(4), are unavailing. *See Falcon Carriche v. Ashcroft*, 350 F.3d 845 (9th Cir. 2003) (holding that the Board's streamlining procedure comports with due process).

PETITION FOR REVIEW DISMISSED IN PART AND DENIED IN PART.